

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re Horizon Healthcare Services, Inc.
Data Breach Litigation,

Case No. 13-cv-07418-CCC-MF

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

In further opposition to Horizon Healthcare Services, Inc.'s ("Horizon") pending motion to dismiss, Plaintiffs respectfully advise the Court of the United States Court of Appeals for the Seventh Circuit's recent decision in *Dieffenbach v. Barnes & Noble, Inc.*, No. 17-2408 (7th Cir. April 11, 2018) (Exhibit A hereto).

In *Dieffenbach*, the plaintiffs allege that a retailer defendant's failure to maintain reasonable and industry-standard security measures enabled criminals to tamper with PIN pad devices at 63 of the retailers stores and steal the credit and debit card information (names, card numbers, expiration dates, and PINs) of customers who swiped their cards at those stores. In the *Dieffenbach* Order, the Seventh Circuit recognizes that the inability to access stolen bank funds for days, the inability to make purchases for days, time spent by a data breach victim to sort things out with her bank and the police in the aftermath of a breach, and money spent for credit monitoring protection after learning of a breach each, independently, constitute recoverable damages.

The *Dieffenbach* Order reverses the district court decision cited by Horizon in support of its pending motion to dismiss, *In re Barnes & Noble Pin Pad Litig.*, No. 12-cv-08617, 2017 WL 2633398 (N.D. Ill. June 13, 2017). *See* ECF 80.

Dated: April 13, 2018

Respectfully submitted,

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